

**IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH**

**R.S.A. No. 3227 of 2005**

**Date of decision March 15, 2007**

Harbir

**.....Appellant**

**Versus**

Karan Singh

**.....Respondent**

**CORAM: HON'BLE MR. JUSTICE VINEY MITTAL**

Present:- Sh. R. K. Syal, Advocate  
for the appellant.

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**Viney Mittal, J (Oral)**

An unsuccessful plaintiff is appellant before this Court.

A suit for declaration and permanent injunction filed by the plaintiff was dismissed by the trial Court. His appeal has failed before the appellate Court. Plaintiff Harbir claims himself to be son of Tota Ram and filed the suit in February 18, 1998 challenging the decree dated June 13, 1988 suffered by Tota Ram in favour of defendant Karan Singh. It was claimed by the plaintiff that the said decree was based upon fraud and as such, was null and void and liable to be set aside.

Both the Courts below have held that plaintiff had failed to prove that he was son of Tota Ram. It has also been held that Tota Ram had suffered the decree willingly and voluntarily in favour of defendant Karan Singh. The suit of the plaintiff has also been held to be barred by limitation.

At this stage, it may be noticed, as conceded by learned counsel appearing for the appellant, that Tota Ram had died on July 12, 1996. It is thus, apparent that for a period of almost eight years, when Tota Ram was alive, he had not challenged the decree dated June 13, 1988. In these

circumstances, even if it be taken that Harbir, plaintiff is son of Tota Ram, still he has not justified the delay in filing the suit. Once, Tota Ram had accepted the decree, then after his death, the plaintiff cannot challenge the said decree. In any case, the two Courts have held that plaintiff was not shown to be son of Tota Ram.

Nothing has been shown that the findings of fact recorded by the two Courts below suffer from any infirmity or are contrary to the record.

No question of law, much less any substantial question of law, arises in the present appeal.

Dismissed.

**March 15, 2007**  
**archana**

**(VINEY MITTAL)**  
**JUDGE**